

ITEM NO:	2.1 Confidential
MEETING TYPE	Special Council
MEETING DATE:	4 January 2018
SUBJECT:	Streaky Bay Medical Clinic
FILE NUMBER	F17/134 - Chief Executive Officer
RECORD NUMBER:	R18/64
AUTHOR:	Joy Hentschke
ATTACHMENT (S):	Relevant excerpt(s) from the Local Government Act 1999 (R18/65) Incorporated Associations information (R18/66)

LINKS TO STRATEGIC MANAGEMENT PLAN 2016-2026

KEY RESULT AREA:	4. Community, Culture and Recreation
STRATEGY:	4.10. Promote and encourage provision of adequate health services and aged care accommodation and facilities.
ACTION:	Choose an item.

CONSIDERATIONS Chapter 2 – The system of local government, *Local Government Act 1999*

Section 6 – Principle role of a council <i>A council is, under the system of local government established by this Act, established to provide for the government and management of its area at the local level and, in particular-</i>	(a) to act as a representative, informed and responsible decision-maker in the interests of its community;
Section 7 – Functions of a council: <i>The functions of a council include-</i>	(b) to provide services and facilities that benefit its area, its ratepayers and residents, and visitors to its area (including general public services or facilities (including electricity, gas and water services, and waste collection, control or disposal services or facilities), health, welfare or community services or facilities, and cultural or recreational services or facilities)
Section 8 – Principles to be observed by a council: <i>A council must act to uphold and promote observance of the following principles in the performance of its roles and functions-</i>	(b) be responsive to the needs, interests and aspirations of individuals and groups within its community;

BACKGROUND:

Council resolved the following at the 21 December 2017 Ordinary Council meeting:

“Council Resolution

386/17

Moved: Wheaton, Seconded: Trezona

That Council having considered report 17.2 titled ‘Streaky Bay Medical Clinic’, 21 December 2017 resolve that Council commit to purchase the Business known as the Streaky Bay Medical Clinic for the permanent benefit of the district, subject to the existing practice owner/doctor remaining for a further period to assist with transitioning, Council staff continue to investigate an appropriate business model, and that a further report be presented at a Special Meeting, January 4, 2018.

CARRIED”

The investigation into the appropriate business model included contact with other council's and legal advice. The circumstances of each Council have varied and therefore serve only to complicate the analysis. Legal advice suggests two options. One is to form a Subsidiary (Division 3, Sec 42 (1) of the Local Government Act 1999), however this requires approval from the Minister and the other is an Incorporated Association. Both of these would need verification with the Medicare eligibility as entities.

Initially Council would purchase as the District Council of Streaky Bay, take ownership, employ staff and commence changeover of agreements and other documentation whilst the Subsidiary or Incorporation are being established. The Subsidiary is a body corporate, has a charter and a board of management. This allows the entity to function separately, this is to be identified in the formation of the charter (Schedule 2, Sec 3). The Incorporated Association has the advantage of allowing the community to be individual members. Given the nature of the medical service and the professional arrangement with Doctors the Subsidiary or Incorporation allow flexibility in the remuneration arrangements of staff, this cannot easily occur within the normal council employment structures. A Subsidiary must have business plans, budgets etc and align with Councils Strategic Management Plans. The Incorporation must have a public officer, chair, secretary, treasurer and committee members. It must also create its rules (*Association Incorporated Act 1985*). The Council can gift the business as purchased to the Incorporation and be a member (voting rights are determined through the rules, usually all members have voting rights).

In purchasing and taking responsibility for the Streaky Bay Medical Clinic consideration is required for resourcing the process and setup (this is required regardless) then the formation and application of either entity. This would be a combination of a competent employee or consultant and a legal firms' services.

OPTIONS:

1. Council purchase the Streaky Bay Medical Clinic as the District Council of Streaky Bay and operates the same.
2. Council purchase the Streaky Bay Medical Clinic as the District Council of Streaky Bay and proceeds to form a Subsidiary to manage the facility and activities on behalf of the District Council of Streaky Bay.
3. Council purchase the Streaky Bay Medical Clinic as the District Council of Streaky Bay and proceeds to form an Incorporated Association to own and manage the facility and activities on behalf of the Streaky Bay District.
4. That council provides a resourcing budget of \$.....

Recommendation

1. That Council resolve:

- (a) Pursuant to Section 90(2) of the Local Government Act, 1999, the Council orders that all persons with the exception Manager Corporate Services Kristen Clark, Community and Economic Development Manager, Penelope Williams (Minute Secretary) to be excluded from attendance at the meeting for agenda item 2.1, relating to “Streaky Bay Medical Clinic”.
- (b) The Council is satisfied pursuant to Sections 90 (3)(b) of the Act, the information the disclosure of which - (i) could reasonably be expected to confer a commercial advantage on a person with whom council is conducting, or proposing to conduct, business, or to prejudice the commercial position of council; and (ii) would, on balance, be contrary to the public interest”.
- (c) The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances.

(d)

Recommendation

That Council, having considered Report No 2.1, Streaky Bay Medical Clinic, 4 January 2018 purchase the Streaky Bay Medical Clinic as the District Council of Streaky Bay and proceeds to form an Incorporated Association to own and manage the facility and activities on behalf of the Streaky Bay District and provides a resourcing budget of \$.....

Recommendation

2. That having considered the agenda item 17.2 relating to “Streaky Bay Medical Clinic” in confidence under Section 90(2) and (3)(b) of the Local Government Act, pursuant to Section 91(7) of the Act orders that the minutes, reports considered and discussed in relation to agenda item 2.1 be retained in confidence until December 2018.